



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Jacob K. Javits Federal Building
26 Federal Plaza, 37th Floor
New York, New York 10278*

April 26, 2024

By ECF

The Honorable Sidney H. Stein
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

**Re: *United States v. Robert Menendez, et al.*,
S4 23 Cr. 490 (SHS)**

Dear Judge Stein:

The Government respectfully writes in the above-captioned matter in opposition to defendant Robert Menendez's letter motion requesting that he be permitted to personally possess all of Government's 18 U.S.C. § 3500 material, notwithstanding the designation of that material under this case's protective order as Attorney's Possession Only (Dkt. 349). Consistent with this Office's general practice, particularly in complex cases, the Government produced to the defendants far more than what is required by the Jencks Act, including statements and information of non-witnesses or other third parties, as well as documents shown to witnesses from a variety of sensitive sources that were also designated as Attorney's Possession Only. Moreover, several of the potential witnesses whose statements or materials are included in the Section 3500 material have expressed concerns about testifying, including regarding professional retaliation, and/or have connections with a relevant foreign country.

Given the breadth and nature of this material, and that this case includes foreign agent and multiple obstruction of justice charges against the defendant, as well as bribery and extortion offenses, the Attorney's Possession Only designation is appropriate. Nor has any other defendant objected to this designation. Menendez's assertion that he has a "high-level security clearance" (Dkt. 349 at 1) is neither accurate nor a reason to make an exception for him to the protection of this sensitive material. While Menendez is a "sitting federal lawmaker" (*id.*) who is permitted to review certain classified information to the extent necessary to perform his official legislative functions, he does not have a security clearance, as his letter claims. Security clearances are granted by the Executive Branch only after a rigorous investigation.

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Notwithstanding the foregoing, the Government has informed all defense counsel that, if there are particular documents that the defendants believe need not be designated as Attorney's Possession Only, the Government is amenable to considering re-designating those specific documents. That is the appropriate and targeted solution to the issue raised by the defendant, not wholesale de-designation of all manner of material.

Respectfully submitted,

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cc: (by ECF)

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